

**STATE OF MICHIGAN  
IN THE 4<sup>th</sup> JUDICIAL CIRCUIT COURT COUNTY OF JACKSON  
CRIMINAL DIVISION**

**PEOPLE OF THE STATE OF MICHIGAN**  
**Plaintiff,**

**Case No. 20-003172-FH**  
**Hon. Thomas Wilson**

**V**

**JOSEPH MORRISON**  
**Defendant.**

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**MOTION TO QUASH**

NOW COMES the Defendant, Joseph Morrison, by and through his attorney Nicholas P. Somberg of Somberg Law, PLLC and in support of his motion states as follows:

1. Mr. Morrison is charged with providing material support for acts of terrorism, contrary to MCL 750.543k(1)(b), one count of membership in a gang attempting to commit material support for acts of terrorism contrary to MCL 750.411u, and possession of a firearm during the commission of a felony (felony-firearm), contrary to MCL 750.227b.
2. A Preliminary Exam was held in this matter, which occurred over three days.

3. "The purpose of a preliminary examination is to determine whether there is probable cause to believe that a crime was committed and whether there is probable cause to believe that the defendant committed it." *People v Perkins*, 468 Mich 448,452; 662 NW2d 727 (2003).

4. In this case, the People failed to meet their burden and the District Court abused its discretion when it bound this case over to Circuit Court.

5. For the reasons set forth in the attached Brief in Support of this Motion to Quash, Mr. Morrison believes this Honorable Court will agree and find that the District Court erred in granting the bind over.

WHEREFORE, based on the above and attached brief, Defendant respectfully requests that this Honorable Court dismiss the charges against him.

I DECLARE THAT THE ABOVE STATEMENTS ARE TRUE TO THE BEST OF MY INFORMATION, KNOWLEDGE, AND BELIEF

Sincerely,

/s/ Nicholas P. Somberg

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**BRIEF IN SUPPORT OF MOTION TO QUASH**

**I. LAW AND ARGUMENT**

A magistrate may bind a defendant over for trial if “it shall appear from the proofs that an offense not cognizable by [the district court] has been committed, and that there is probable cause for charging defendant.” *People v Doss*, 406 Mich 90, 100 (1979). “If the magistrate determines at the conclusion of the preliminary examination that a felony has not been committed or that there is not probable cause for charging the defendant with committing a felony, the magistrate shall either discharge the defendant or reduce the charge to an offense that is not a felony.” MCL 766.13. The two-part inquiry at a preliminary exam is first whether a

felony offense has been committed, and second, is whether there is probable cause that the defendant committed that offense. *People v Johnson*, 427 Mich 98, 104 (1986).

The district court's inquiry should not be limited to the prosecution's presentation of evidence of each element and a determination of probable cause. Rather, the magistrate has a duty to make a determination after "an examination of the whole matter." *People v King*, 412 Mich 145, 154 (1981). The Michigan Supreme Court has interpreted this requirement to mean that the examining magistrate must at least consider defenses that mitigate the prosecution's case, therefore affecting the magistrate's decision of whether or not to bind the defendant over for trial. *Id.*

The district court's decision to bind over is normally reviewed for an abuse of discretion. *People v Schaub*, 254 Mich App 110, 114 (2002). An abuse of discretion occurs when the result is so violative of fact and logic that it evidences a perversity of will, a defiance of judgment, or an exercise of passion or bias. *McKinley, supra.*

In the case at-hand the district court abused its discretion when it bound over Defendant on the charges of providing material support for acts of terrorism, contrary to MCL 750.543k(1)(b), one count of membership in a gang attempting to commit material support for acts of terrorism contrary to MCL 750.411u, and possession of a firearm during the commission of a felony (felony-firearm), contrary to MCL 750.227b, because the people failed to show Joseph Morrison provided any material support to any alleged "plan" at any time. Further, if this court finds that Defendant Morrison provided material support to a terrorist organization, they failed to show that he was in the possession of a firearm while any material support was being given and that he was a part of any "gang" while that material support was being given.

## **STATEMENT OF FACTS**

Currently Mr. Morrison is charged with providing materials support for acts of terrorism, contrary to MCL 750.543k(1)(b), one count of membership in a gang attempting to commit material support for acts of terrorism, contrary to MCL 750.411u, and one count of possession of a firearm during the commission of a felony, contrary to MCL 750.227b.

After reviewing the voluminous preliminary exam transcripts, the people have failed to show by a probable cause standard that Defendant ever knowingly provided material support or resources to a person knowing that the person will use that support or those resources in whole or in part to plan, prepare, carry out, facilitate, or avoid apprehension for committing an act of terrorism. It is clear the “plan” the people are referring to is Adam Fox’s plot to kidnap Governor Whitmer and the material support is Defendant’s land that the FBI invited Adam Fox to come and train at. Joseph Morrison was never made aware of any actual plan to kidnap the governor. Joseph Morrison had left the wolverine Watchmen and was ousted by his own members who had gone on to create their own groups. Adam Fox even communicated to the FBI’s CHS long after the FBI invited him to train and Joseph Morrison’s land that “Morrison knows nothing about his plot”. There was never any training to kidnap the governor. There were never any personnel directed or provided by Joseph Morrison to Adam Fox. Further, there was no testimony whatsoever that Joseph Morrison was in possession of any firearm during the commission of felonious act of providing material support for a terrorist / organization. The below citations from Volume 2 and 3 of the preliminary examination transcripts show that it is clear Joseph Morrison had nothing to do with Adam Fox’s plot to kidnap governor Whitmer. Nobody ever trained at Joseph Morrison’s property to breach any Capitol doors or the doors of the governor’s house.

Q. At no point in time did Joe Morrison say today we're going to and -- and not verbatim but at no point did Joe Morrison say anything to the effect of today we're going to pretend like we're breaching the Capital doors?

A. To that degree no, I don't recall if anything like that.

Q. And you have lots of hours of recording, correct?

A. That's right.

(PE Vol. 3 pg. 223 lines 20-25 and pg. 224 line 1)

The FBI are on recording inviting Adam Fox, a man they know is dangerous and crazy to Joseph Morrison's residence. But even while Adam Fox is present, there is no training to kidnap the governor.

Q. You actually invited him (Adam Fox) to the Capital protest and to the training, correct?

A. I said you should come to the training sometime

(PE Vol. 3 ( PE Vol. 3 pg. 223 lines 11-14)

Q. And there was no, so while you're there this was just a standard training, you testified to?

A. Yeah.

Q. There was no thing, okay pretend this is like you're going in Governor Whitmer's house, correct?

A. No.

Q. Okay. There's no like pretend you're going in her -- in the -- you know the Capital building, correct?

A. Correct.

Q. You didn't, there was no a -- like -- like kidnapping trainings or dress -- dress rehearsals or anything like that?

A. A kidnapping I don't, I'm not sure on the exact date it was brought up, but that's when Adam brought out who's down for a kidnapping a tyrant was at the, Joe's residence.

Q. And he, and we'll get to that but during the training of that day there's no, nobody pretended to do a kidnapping, no one trained to do a kidnapping right?

A. No.

(PE Vol. 3 pg. 226 lines 18-25 pg. 227 lines 1-7

Once Adam Fox not only didn't train for any part of his plot while at Joe's house, under the invitation of the FBI, he never came back for any additional training. Joseph Morrison never provided Adam fox any money nor did he provide him any personnel as the people may contend.

Q. Okay. And, but after that Adam Fox never came to any training at Joe Morrison's ever again?

A. I don't think so no.

Q. And um Adam or I'm sorry Joe never provided Adam any money for his plans?

A. I don't believe so no.

Q. He didn't help him; he didn't help Adam Fox prepare for his plan?

A. He provided personnel through the Watchman, yes.

Q. He, Joe provided personnel?

A. Through the Watchman, yes.

Q. That Joe told who, so Joe, are you saying that Joe told men to -- to do this plan with Adam?

A. We worked under the directive of Joe yeah, as the Watchman. So when we went to

Wisconsin, we were representatives of the Watchman.

Q. Joe, I'm not talking about Wisconsin right now. I'm just asking Joe never ordered or directed any person to -- to plan or to carry out or to prepare for Adam's plan?

A. I guess no.

(PE Vol. 3 pg. 226 lines 5-24)

As of August 4<sup>th</sup>, 2020 Joseph Morrison was not even aware of Adam Fox's plot to kidnap the

governor and was completely out of the loop with all Watchmen members while he was

working on his marriage.

Q. And at some point, it's, and I know dates are, I'm not holding you to a specific date. In late, late July you reached out to Joe, you -- you know him as Boog Daddy Bunyan, right?

A. Correct.

Q. But you're reaching out like hey I'm trying to find out where everybody's mind set. Where are, where are you at with everything, said something like that?

A. Sounds familiar yes.

Q. And he responded something like very, very nice, sorry man I've kind of been out of the loop here lately, working on my marriage?

A. Correct.

Q. All right. On August 4th you provided a, well on -- on -- on August 4th you had a conversation with Adam Fox where he told you that Joe Morrison is not yet aware of the conspiracy to kidnap Governor Whitmer, correct?

A. That sounds fair.

Q. And he also said he's not sure if Joe or Pete would be on board with the plan?

A. That could be correct.

(PE Vol. 3 pg. 231 pg. 3-23)

On August 26<sup>th</sup>, 2020 Joseph Morrison contacted Adam Fox about being out of the group. Adam

Fox told Joseph Morrison that there is always room at his table. Clearly showing Joseph Morrison was not “at Adam’s table”. Two days later the FBI are staking out the governor with Adam Fox, of which Joseph Morrison has no part of.

Q. On 8-26 you, you agree that, that guys are saying sorry Boog Daddy we’re leaving the group, we’re still bois but we’re leaving the Watchman?

A. Who said that?

Q. Beeker.

A. Okay.

Q. And who, whose Beeker in real life?

A. Dan Harris.

Q. Do you remember that?

A. That sounds familiar.

Q. Sorry man we’re, we’re leaving. The twenty-seventh, so the, the next day twenty-seven where Adam Fox started that new group chat Morrison was telling him that basically everyone’s leaving my group, to that affect?

A. Okay, yes.

Q. And **Adam Fox says well there’s always room at my table, right?**

A. Right.

Q. But Joe didn’t accept, that right?

A. I don’t know if he did or not.

Q. And that’s true.

A. Joe made statements before that he was act -- acting as an adviser or a counsel to Adam.

Q. But I’m -- I’m -- so those, those two days I just gave on August 20th of 29 I mean Joe’s pretty much, he -- he’s out, he’s taking care of his marriage, his family. People are leaving him because they’re -- they’re mad, he’s not showing up to anything right?

A. Sounds right.

Q. **And then it’s two days later where you and Adam Fox and all these other guys are up staking out the governor, watching her house, taking pictures, that type of stuff, two days later, right?**

A. **Correct.**

Q. **And Joe, Joe still wasn’t, wasn’t even involved in the group that, during that time?**

A. **That’d be correct.**

( PE Vol. 3 pg. 232 17-25 pg. 234 1-3)

## **CONCLUSION**



WHEREFORE, in reviewing the transcripts and the law above, all charges against Mr. Morrison should be dismissed as the bind over is defective. There is no evidence in this case to support the position of the People that Mr. Morrison materially supported Adam Fox and his plot. Mr. Morrison was not even aware there was a plot being planned. There was no money given, no training given, no personnel given, and no directions given. For the reasons stated above, Mr. Morrison respectfully requests that this Honorable Court grant his motion to quash.

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Sincerely,

/s/ Nicholas P. Somberg

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